

**MAYOR & COUNCIL  
REGULAR MEETING  
DECEMBER 13, 2012  
7:30 p.m.**

The Regular Meeting of the Mayor and Council of the Borough of Rockaway, in the County of Morris, New Jersey, was held in the Community Center, 21-25 Union Street, Rockaway, N.J. with Mayor Russell Greuter presiding. Mayor Greuter called the meeting to order at 7:31 p.m.

Mayor Greuter read the following statement: In accordance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Laws, 1975, be advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and sending to the officially designated newspapers, a list of meeting dates annually, indicating that the meeting would take place at the Community Center at 7:30 p.m. on December 13, 2012. Mayor Greuter announced the location of the fire exits.

Councilmembers Present

Thomas Donofrio  
Joyce Kanigel  
Thomas Mulligan  
Joseph Vicente  
John Willer

Councilmembers Absent

Melissa Burnside - Council President

Borough Attorney Ed Wacks was also present

Everyone present participated in the salute to the flag.

MAYOR'S APPOINTMENT

Mayor Greuter announced the appointment of Kathryn Mantell, C.P.A., R.M.A., Nisivoccia LLP to the position of Borough Auditor beginning January 1, 2013 through December 31, 2013.

Upon motion by Councilman Willer, seconded by Councilman Vicente, and carried unanimously via roll call vote to concur with the Mayor's appointment of Kathryn Mantell, C.P.A., R.M.A., Nisivoccia LLP to the position of Borough Auditor beginning January 1, 2013 through December 31, 2013.

APPROVAL OF MINUTES

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, the minutes of the November 19, 2012 Regular Meeting and the December 3, 2012 Capital Budget Meeting were accepted as submitted.

COUNCIL REPORTS

Personnel Committee - Councilwoman Kanigel

*Historical Committee*

New officers of the Historical Committee include Ed Miller and Jean Reuter as president and vice president respectively.

Upon motion by Councilman Vicente, seconded by Councilman Willer, and carried unanimously upon voice vote, to accept the Personnel Committee report.

Public Works/Public Utilities Committee - Councilman Donofrio

*Salt Storage and Recycling Center Improvement Project*

Councilman Donofrio and Mayor Greuter met with the Borough Engineer regarding the salt storage and recycling center improvement project. Additional paving will be required in the spring.

Upon motion by Councilman Vicente, seconded by Councilman Willer, and carried unanimously upon voice vote, to accept the Public Works/Public Utilities Committee report.

Ordinance Committee - Councilman Mulligan

*PBA Contract Negotiations*

Meetings have been held with the PBA and they are moving forward toward finalizing the contract.

Explained the ordinances that will be introduced and adopted tonight.

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Ordinance Committee report.

Finance and Licensing Committee - Councilman Vicente

*Payment of Bills*

Upon motion by Councilman Vicente, seconded by Councilman Willer, and carried unanimously upon voice vote, that the bills presented to the Borough of Rockaway for payment by the Borough, as evidenced by proper vouchers, be referred to the Committee or unit contracting for same, and, when endorsed by them and approved by appropriate action of Council, that they are to be paid.

Discussed the possible sale of Borough-owned properties that could be sold. Mrs. Joyce Freiermuth reported that the Environmental Committee identified eight lots for possible sale. Mayor Greuter would like to make a decision at the next meeting as to which properties could be sold in 2013.

Upon motion by Councilman Willer, seconded by Councilman Mulligan, and carried unanimously upon voice vote, to accept the Finance and Licensing Committee report.

Fire Committee - Councilman Willer

*Fire Department*

The Fire Department called drills on December 10 and 26 and an officers drill on December 10; approved the application of Rachel Bainton for fire and first aid and dropped Andrew Stein. Sam Passarella, Ron Hamman, and Bill Hopley will be the 2013 fire chiefs.

The Fire Department recommended that the Borough utilize Saint Clare's ambulance 24/7. Mayor Greuter will meet with Saint Clare's at the end of the month.

Upon motion by Councilman Willer, seconded by Councilman Vicente, and carried unanimously upon voice vote, to approve the actions of the Fire Department.

Upon motion by Councilman Vicente, seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Fire Committee report.

ATTORNEY'S REPORT

*Park Lake Gate*

Full payment was received for the accident at the Park Lake gate.

*EPA*

Mr. Wacks distributed the report from Alliance Technologies in which they believe they should not be responsible for any continuing cleanup for the Borough's well because the plume that was created by Thiokol has shrunk. Until there is a final order from the EPA that cannot be appealed, we should continue to bill them.

Upon motion by Councilman Donofrio, seconded by Councilman Vicente, and carried unanimously upon voice vote, to accept the Borough Attorney's report.

MAYOR'S REPORT

The Chief Financial Officer has determined that there is at least \$10,000 in the 2012 Streets and Roads budget that will not be needed this year for salt. The salt shed and brine containers are both full. Request that the Governing Body authorize the Borough Clerk to solicit quotations for website improvements.

Upon motion by Councilman Willer, seconded by Councilman Donofrio, and carried upon majority voice vote, with Councilman Vicente voting no, to authorize the Borough Clerk to solicit quotations for website improvements.

Upon motion by Councilman Vicente seconded by Councilman Donofrio, and carried unanimously upon voice vote, to accept the Mayor's report.

CLERK'S REPORT

*Community Development Project*

The County of Morris has increased the Borough's 2012 program grant award by \$40,000 for a total of \$62,500 for the sewer manhole rehabilitation project.

*Clean Communities*

Received a letter from Sacred Heart Preschool thanking us for the Clean Communities sponsored program by Diana Dove. Twenty-six children enjoyed participating with singing, holding animals and dressing up.

Upon motion by Councilman Vicente, seconded by Councilman Mulligan, and carried unanimously upon voice vote, to accept the Clerk's report.

CONSENT AGENDA ITEMS

Upon motion by Councilman Willer, seconded by Councilman Mulligan, and carried unanimously upon call of the roll, the following resolutions were adopted:

**RESOLUTION 160-12: ADOPT POLICY GOVERNING USE OF ELECTRONIC COMMUNICATIONS BETWEEN MUNICIPAL OFFICIALS DISCUSSING MUNICIPAL BUSINESS**

**WHEREAS**, the Open Public Meetings Act ("OPMA") defines a meeting as "any gathering whether corporeal or by means of communication equipment, which is attended by, or open to, all of the members of the public body, held with the intent, on the part of the members of the body present, to discuss or act as a unit upon the specific public business of that body." N.J.S.A. 10:4-8(b); and

**WHEREAS**, "communication equipment" may include electronic equipment through email, text message, social media, or any other similar device; and

**WHEREAS**, communication using electronic equipment, among an effective majority of the members of a "public body" as defined by OPMA, held with the intent to discuss or act on public business, that is not open to the public, may violate OPMA; and

**WHEREAS**, it is appropriate for the Borough of Rockaway to adopt guidelines regarding the use of electronic communications, such as email, text messages, and other forms of electronic communication, when discussing or deliberating upon municipal business; and

**WHEREAS**, this need to establish a policy was prompted by events that occurred in several counties, involving the exchange of email communications by and between elected members of governing bodies, and municipal clerks, managers, administrators, staff and professionals; and

**WHEREAS**, those communications, depending upon the circumstances, can be deemed to be "meetings" under the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq. ("The Sunshine Law"); and

**WHEREAS**, it is important for municipal officials to identify the differences between typical communications in which "the business of the municipality is not discussed," and other forms of communication which might fall under The Sunshine Law; and

**WHEREAS**, the Governing Body of the Borough of Rockaway has determined that it is appropriate to adopt a policy governing the use of electronic communications by municipal officials where the business of the municipality is included within the content of said communications.

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Borough of Rockaway, County of Morris, State of New Jersey, that the following policy is hereby adopted and shall constitute the guidelines to be followed within the Borough of Rockaway governing the use of electronic communications by municipal officials, when the business of the Governing Body is intended to be discussed:

1. Email communications should, as far as practicable, not include an effective majority of the governing body and should never include an effective majority of the governing body where a discussion of information related to the business of the municipality is involved.
2. Where email communications do include an effective majority of the governing body, the communications should not include any request for a response. Any email communication should indicate that there should be no email reply or response for communication.
3. In the rare instance when a response to an email is appropriate, the response must not involve any decision-making or deliberative function of the governing body or otherwise address public business as contemplated by the OPMA. Further, the response shall not be made to the entire list of email addressees to avoid even the appearance of circumvention of the Act. The use of the "Reply-All" function should be avoided and any response should be limited to a response to the sender only, such as the Administrator, Clerk, or Attorney.

4. Rolling email conversations must be avoided. A "rolling" email occurs when one member of the governing body, or a third party, contacts others via email individually to successively discuss or gain opinions on an item of municipal business. This would apply to other forms of electronic communication as well. However, communications between less than an effective majority of the governing body do not violate the OPMA provided the dialogue does not become a "rolling" discussion that ends up including an effective majority of the governing body.
5. To the extent possible, email communications regarding the public business of the Governing Body, when sent by Governing Body members, should be sent to the Administrator and/or Municipal Clerk for dissemination to other members of the Governing Body, professionals, or staff.
6. A member of a public body, or a third party, may communicate electronically with an effective majority of the public body if the communication is of a purely informational nature. For example, the Administrator and/or Municipal Clerk may email the Council to inform them on current issues in the town or items to be placed on a future agenda.
7. This policy is adopted as a Borough Policy and shall apply to all Agencies and Boards of the municipality that are subject to the Open Public Meetings Act, including but not limited to, the Board of Health, Land Use Board, and Library Board of Trustees.
8. Copies of this Resolution shall be provided to all elected and appointed officials and to those newly elected or appointed to any municipal agency or body that is subject to the Open Public Meetings Act.

DATE: December 13, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

**RESOLUTION 161-12: 2013 COMMUNITY DEVELOPMENT PROJECT**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway that, after due discussion and consideration, the following project shall be submitted by the Borough of Rockaway as the Community Development Project for the year 2013:

WATER SYSTEM IMPROVEMENTS

**BE IT FURTHER RESOLVED**, that the Mayor and Council authorized the expenditures of funds, not to exceed \$4,000 for the preparation of necessary cost estimates, studies, designs and other miscellaneous items in support of the Borough's project submission.

DATE: December 13, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

**RESOLUTION 162-12: REFUND USE OF FACILITY DEPOSIT (MCDONALD BASEBALL CAMP, LLC)**

**WHEREAS**, McDonald Baseball Camp, LLC, 11 Baker Street, Rockaway, NJ 07866, paid a \$100.00 refundable security deposit fee for use of Donatoni Community Park; and

**WHEREAS**, it was determined that the Park was left in an undamaged and clean condition.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, to refund \$100.00 to McDonald Baseball Camp, LLC, 11 Baker Street, Rockaway, NJ 07866 for a Use of Facility Request Deposit.

DATE: December 13, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

**RESOLUTION 163-12: RESOLUTION SUPPORTING THE DRIVE SOBER OR GET PULLED OVER 2012 YEAR END CRACKDOWN**

**WHEREAS**, impaired drivers on our nation's roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

**WHEREAS**, 25% of motor vehicle fatalities in New Jersey are alcohol-related; and

**WHEREAS**, an enforcement crackdown is planned to combat impaired driving; and

**WHEREAS**, the season at the end of the year is traditionally a time of social gatherings which often include alcohol; and

**WHEREAS**, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the *Drive Sober or Get Pulled Over Year End Crackdown*; and

**WHEREAS**, the project will involve increased impaired driving enforcement from December 7, 2012 through January 2, 2013; and

**WHEREAS**, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough of Rockaway declares its support for the *Drive Sober or Get Pulled Over 2012 Year End Crackdown* from December 7, 2012 through January 2, 2013 and pledges to increase awareness of the dangers of drinking and driving.

DATE: December 13, 2012 BOROUGH OF ROCKAWAY  
ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 164-12: REFUND YEAR 2011 STATE TAX APPEAL (BLOCK 73.02, LOT 15)**

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Rockaway, County of Morris, to refund 2011 State tax appeal for Block 73.02, Lot 15, in the amount of \$953.87, to Craig M. Gernandt and Laura K. Slaby, 66 Crestwood Road, Rockaway, N.J. 07866.

DATE: December 13, 2012 BOROUGH OF ROCKAWAY  
ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

**RESOLUTION 165-11: APPROVE 2013 AMUSEMENT DEVICE LICENSES**

**WHEREAS**, the following named applicants have duly filed applications for the license known as an Amusement Device License, for the period from January 1, 2013 to December 31, 2013:

<u>License Number</u>	<u>Name</u>	<u>Place of Business</u>
210	The Exchange Restaurant	160 E. Main St. Rockaway, NJ 07866
211	Tavern on the Rocks	9 Wall St. Rockaway, NJ 07866
212	Brick 46	68 Route 46 Rockaway, NJ 07866
213	Rockaway Lanes, Inc.	365 Route 46 West Rockaway, NJ 07866
214	Giggles Play Station LLC	350 Route 46 East Rockaway, NJ 07866
215	Rockaway Billiards	353 Route 46 West Rockaway, NJ 07866
216	Mill Lane Tavern	8 Mill Lane Rockaway, NJ 07866

**WHEREAS**, the said applicants have fully completed the required application and paid the proper fees pertaining to said license; and

**WHEREAS**, said application lists number of machines, machine type, and serial number of each machine, as described in the Code of the Borough of Rockaway §95-1;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that the Amusement Device License be and the same is hereby granted to the above named applicants and shall be effective as provided by law.

DATE: December 13, 2012 BOROUGH OF ROCKAWAY  
ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

ORDINANCE NO. 28-12, Introduction & First Reading

**ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL  
AMENDING CHAPTER 261, HEALTH AND SANITATION,  
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

Councilman Mulligan moved that this ordinance be taken up and passed on first reading and that the Borough Clerk be authorized to have the ordinance published in accordance with the law in *The Citizen* and the *Daily Record* for hearing and final passage on December 27, 2012.

Said motion was seconded by Councilman Vicente and passed as follows upon call of the roll:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Willer  
Nays: None

ORDINANCE NO. 23-12, Public Hearing & Adoption

**ORDINANCE NO. 23-12**

**ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL  
AMENDING CHAPTER A263, FEES,  
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

**WHEREAS**, the Board of Recreation Commissioners has recommended that the fees for sports cards be reduced to reflect a reduction in anticipated expenditures; and

**WHEREAS**, the fees for sports cards were last amended in 2010; and

**WHEREAS**, the Mayor and Council of the Borough of Rockaway concur with the recommendation of the Board of Recreation Commissioners.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that the following amendments be made to Chapter A263, Fees, Section A263-1, Fees established, as follows:

Section I

1. Subsections F (1) (a) [1] and [3] are hereby repealed in entirety and modified to read as follows:

"F. Chapter 179, Parks and Recreation Areas, including the beach and tennis facilities.

(1) The fees imposed beginning January 1, 2013, shall be as follows:

(a) Sports cards.

[1] Residents of the Borough of Rockaway: \$60 per person.

[3] Fees shall not exceed \$180 per immediate family (three people) of residents of the Borough of Rockaway."

Section II

1. This Ordinance may be renumbered for codification purposes.
2. All Ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
4. This Ordinance shall take effect January 1, 2013.

DATE: December 13, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor Greuter opened the meeting to the public. There being no comments, Mayor Greuter closed the public hearing.

On motion by Councilman Mulligan and seconded by Councilman Vicente, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Willer  
Nays: None

ORDINANCE NO. 24-12, Public Hearing & Adoption

**ORDINANCE NO. 24-12**

**ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL ABOLISHING RECREATION COMMISSION, ESTABLISHING  
PARKS AND RECREATION ADVISORY COMMITTEE AND REVISING  
CHAPTER 71 OF THE CODE OF THE BOROUGH OF ROCKAWAY**

**WHEREAS**, in order to assure the responsible use and expenditure of resources and streamline operations, good cause exists to abolish the Recreation Commission, and replace that Commission with a Parks and Recreation Advisory Committee, the purpose of which will be to advise and report to the Mayor and Council on park and recreation matters within the Borough of Rockaway; and

**WHEREAS**, it is also necessary and appropriate at this time to make other revisions to the provision of the Code of the Borough of Rockaway concerning recreation.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that the Code of the Borough of Rockaway is amended as follows:

Section I

1. Chapter 71, "Recreation Commissioners, Board of," is deleted in its entirety.
2. A new Chapter 201 is added to the Code of the Borough of Rockaway, to read as follows:

**"Chapter 201  
Recreation**

**Article I  
Parks and Recreation Advisory Committee**

**§ 201-1. Creation.**

There is hereby created a Parks and Recreation Advisory Committee of the Borough of Rockaway.

**§ 201-2. Membership.**

The Parks and Recreation Advisory Committee of the Borough of Rockaway shall be composed of not fewer than three nor more than seven persons voting members to be appointed by the Mayor with the advice and consent of the Council. Members shall be appointed annually for a two-year term. Members of the Committee shall serve without compensation. The Committee shall designate one (1) of its members to serve as chairperson and presiding officer of the Committee. The Committee is authorized to adopt bylaws governing its procedural operations.

**§ 201-3. Vacancies.**

In the event that any member of the Parks and Recreation Advisory Committee shall resign or be unable to serve for any reason as a member of said Committee, the vacancy created thereby shall be filled for the remainder of his or her term in the manner provided for appointments under § 201-2 above.

**§ 201-4. Duties and powers.**

A. It shall be the duty of the Parks and Recreation Advisory Committee to:

- (1) Make studies, surveys and recommendations to the Mayor and Council with respect to recreation programs and the planning, development, construction and maintenance of the parks and recreation facilities of the Borough of Rockaway.
- (2) Recommend to the Mayor and Council the fees, if any, to be charged for use of the said recreation facilities.
- (3) Recommend to the Mayor and Council rules and regulations to be adopted with respect to the use of the Borough's recreation facilities.
- (4) Make recommendations to the Mayor and Council on any other matters which may be referred to the Committee by the Mayor and Council.

- B. The Parks and Recreation Advisory Committee shall have no powers other than those set forth herein and shall not commit the Borough of Rockaway to the commission or omission of any act or thing, nor shall it establish any policy of the Borough of Rockaway, nor shall it waive any policy, rules, regulations or ordinances previously established by the Borough of Rockaway.

**§ 201-5. Expenditures.**

The Parks and Recreation Advisory Committee shall have no authority to expend any money or incur any expense or commit the Borough of Rockaway to the expenditure of any money unless and until the same shall have been specifically authorized and approved by the Mayor and Council of the Borough of Rockaway.

**§ 201-6. Meetings and officers.**

- A. Meetings shall be held at such time and place as shall be determined annually by resolution of the Parks and Recreation Advisory Committee, but there shall be an annual meeting for Committee organization, to be held during January of each year.
- B. There shall be elected at the annual organization meeting each year a Chairman and a Vice Chairman, both of whom shall hold office for one year and be elected by a majority vote of the Committee.

**Article II  
Recreation, General Provisions**

**§ 201-8. Fees and charges.**

- A. In order to provide the funds, in whole or in part, necessary to improve, maintain and police the parks, playgrounds or recreation places under its control, the Borough of Rockaway may arrange and provide for the giving of exhibitions, plays, concerts, games and contests and may use and employ such parks, playgrounds or recreation places for the purpose of giving thereon exhibitions, plays, concerts, games and contests.
- B. The Borough of Rockaway may charge and collect a reasonable admission fee for each person entering such park, playground or recreation place as a spectator during the time or times when the same is being used or employed for such purposes, and when any such playground or recreation place is used for such purpose, no admission fee shall be charged to or collected from children under 12 years of age.
- C. The Borough of Rockaway may charge and collect a reasonable service charge from persons using, as participants, special areas and facilities which require special maintenance and the use of which is restricted to relatively few people, in order to assist in the meeting of the operating costs thereof in whole or in part.

**§ 201-9. Rules and regulations; violations and penalties.**

- A. The Mayor and Council shall have full control over all lands, playgrounds and recreation places acquired or leased within the Borough of Rockaway, and may adopt suitable rules, regulations and bylaws or the use thereof and the conduct of all persons while on or using the same.
- B. Any person who shall violate any rule or regulation promulgated hereunder shall be subject to a fine of not less than \$100 nor more than \$2,000 and/or by imprisonment for not more than 90 days or community service of 90 days. Such fine and imprisonment or community service shall be at the discretion of the Judge imposing the same. For the purpose of this section, each violation shall be treated as a separate offense, and such person violating the rule or regulation shall be severally punished for each and every such violation and noncompliance as aforesaid.

**§ 201-10. Preservation of order.**

The custodians, supervisors and assistants appointed by the Mayor and Council shall, while on duty and for the purpose of preserving order and the observance of the rules, regulations and bylaws of the Mayor and Council under this Chapter, have all the power and authority of police officers of the Borough.

**§ 201-11. Employees.**

The Mayor and Council may appoint a Recreation Director, who shall report directly to the Mayor and Council, for a term not to exceed three years, and a Secretary or Clerk, and such number of custodians, supervisors and assistants for the several parks, playgrounds and recreation places under the control of the Borough of Rockaway, as the Mayor and Council shall deem necessary, and shall fix and determine their salaries.

**§ 201-12. Appropriation for current expenses.**

The Borough Council shall annually fix, determine and appropriate a sum sufficient for the care, custody, policing and maintenance of such parks, playgrounds and recreation places, which shall be raised by taxation in the same manner as other taxes.

**§ 201-13. Appropriation of funds.**

The money necessary to pay for lands purchased or condemned for such playgrounds and recreation places and for providing and equipping the same from time to time may be raised and provided by the Borough Council by general taxation, as other taxes are raised and levied, or by the issuance of temporary loan bonds or by the issuance of permanent bonds. All such bonds or other obligations shall be issued and paid in the manner provided by the law.

**§ 201-14. Special fund; indebtedness.**

- A. All moneys received by the Borough of Rockaway under this Chapter shall be paid over to the Chief Financial Officer and be kept in a special fund which shall be under the control of the Mayor and Council and used only for the purpose of defraying the expenses of improving, maintaining or policing the parks, playgrounds and recreation places within the Borough and for the other expenses relating to same.
- B. Payments shall be made upon the approval of the Mayor and Council after receipt of a proper voucher therefor from the provider of goods or services.

**§ 201-15. Use of recreation facilities.**

- A. The Borough of Rockaway will allow use of its facilities under certain conditions and as long as said use does not interfere with the primary function of its approved programs.
- B. The priorities and fees for use of facilities are set forth below:
  - (1) Priority 1: Groups directly approved and financed by the Borough of Rockaway with a majority of participants who are residents of the Borough will have first-priority use, according to the seasonal schedules of said sports. No fees will be charged to Priority 1 groups.
  - (2) Priority 2: Organizations approved by the Borough of Rockaway with less than 50% Borough residents will be second in priority. Priority 2 groups will be assessed fees for the use of lights as provided in Chapter A263, Fees.
  - (3) Priority 3: Public schools located in the Borough of Rockaway (Rockaway Borough public schools, Morris Hills High School). No fees will be charged to Priority 3 groups.
  - (4) Priority 4: Departments and agencies of the municipal government. No fees will be charged to Priority 4 groups.
  - (5) Priority 5: Community organizations formed for charitable, civic, social or educational purposes. Priority 5 groups will be assessed fees for the use of lights and scoreboard as provided in Chapter A263, Fees.
  - (6) Priority 6: Outside groups or commercial enterprises that benefit the children of Rockaway, such as a sports camp run for profit. Priority 6 groups will be assessed fees for the use of lights and scoreboard, facility rental fees, and a security deposit as provided in Chapter A263, Fees.
- C. Standards for approval include:
  - (1) Facilities are not available when in use by Recreation programs.
  - (2) Facilities use will not be granted for commercial, profit-making or political activity, except as stated in Priority 6.
  - (3) The Mayor and Council of the Borough of Rockaway will determine the priority of an application.
  - (4) The Mayor and Council reserve the right to deny an application and to withdraw permission for the use of facilities, even after permission has been granted, specifically from any organization that has willfully made misrepresentation on the application or whose members violate the rules for use of said facility.
  - (5) Permission to use a facility is not transferable.

- (6) Permission is withdrawn on any day when the facility is closed for inclement weather, work stoppage, poor field conditions or any other emergency.
  - (7) Users must comply with all applicable statutes, and all municipal ordinances and rules of the Borough of Rockaway, the Department of Health, Fire Department and Police Department.
  - (8) The use may not exceed the capacity of the facility used.
  - (9) The use must not involve gambling or games of chance.
  - (10) Smoking is prohibited.
  - (11) No signs, posters, advertisements or other displays may be placed on Recreation property without the approval of the Mayor and Council.
  - (12) Animals are not allowed on the premises.
  - (13) No vehicle of any type may be operated in any area without permission.
  - (14) Games to be played under the lights must start no later than 8:00 p.m.
- D. All groups, except Priority 1, 2 and 4, must submit a use of facilities request in a timely manner, a hold harmless agreement and a certificate of insurance at least two months prior to the event or be subject to a nonrefundable late fee of \$25."

#### Section II

1. This Ordinance may be renumbered for codification purposes.
2. All Ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. In particular, all references in the Code of the Borough of Rockaway to the Rockaway Borough Board of Recreation Commissioners shall be deemed to refer to the Mayor and Council of the Borough of Rockaway.
3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
4. This Ordinance shall take effect as provided by law.

DATE: December 13, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor Greuter opened the meeting to the public. There being no comments, Mayor Greuter closed the public hearing.

On motion by Councilman Mulligan and seconded by Councilman Vicente, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Willer  
Nays: None

#### ORDINANCE NO. 25-12, Public Hearing & Adoption

#### **ORDINANCE NO. 25-12**

#### **ORDINANCE OF THE BOROUGH OF ROCKAWAY MAYOR AND COUNCIL WAIVING UNIFORM CONSTRUCTION CODES FEES FROM NOVEMBER 1, 2012 THROUGH DECEMBER 31, 2012 FOR HURRICANE SANDY VICTIMS**

**WHEREAS**, the Mayor and Council of the Borough of Rockaway have determined that the devastation caused by Hurricane Sandy had a profound impact on the residents and businesses of the Borough of Rockaway; and

**WHEREAS**, the Mayor and Council would like to assist the residents and business owners in completing the restoration work as soon as possible; and

**WHEREAS**, the Mayor and Council would like to waive fees for the permits for work done as a result of Hurricane Sandy; and

**WHEREAS**, the State of New Jersey, Department of Community Affairs, Division of Codes and Standards, has advised that, pursuant to N.J.A.C. 5:23-4.19(b)5., the State permit surcharge fee would also be waived if the municipality waives its fees; and

**WHEREAS**, the Mayor and Council of the Borough of Rockaway acknowledge that this Ordinance will be introduced and adopted after its effective date.

**NOW, THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that the permit fees subsequent to Chapter 115, Uniform Construction Codes, are hereby waived for those residents and/or businesses seeking to make repairs as the result of Hurricane Sandy, provided that applications for any necessary permits are filed between November 1, 2012 through December 31, 2012.

**BE IT FURTHER ORDAINED** that nothing in this Ordinance shall: (a) relieve any person from the obligation to apply for any and all necessary permits; or (b) prevent any Borough of Rockaway Construction Code or Subcode Official from assessing fines or taking enforcement action based on the failure of any person to apply for any and all necessary permits.

DATE: December 13, 2012 BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk BY: Russell Greuter, Mayor

Mayor Greuter opened the meeting to the public. There being no comments, Mayor Greuter closed the public hearing.

On motion by Councilman Mulligan and seconded by Councilman Vicente, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Willer  
Nays: None

ORDINANCE NO. 26-12, Public Hearing & Adoption

**ORDINANCE NO. 26-12**

**ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL  
AMENDING CHAPTER 169,  
LAND USE ADMINISTRATION AND PROCEDURES,  
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

**WHEREAS**, it appears based on the findings of the Mayor and Council of the Borough of Rockaway that the dissolution of the Zoning Board of Adjustment and transfer of its powers to the Planning Board will serve several important goals, including but not limited to reducing expenses, assuring continuity in land use decisions, eliminating confusion among applicants as to the proper seat of jurisdiction for land use decisions, and preventing "forum shopping" among applicants; and

**WHEREAS**, N.J.S.A. 40:55D-25c.(1) provides as follows:

In a municipality having a population of 15,000 or less, a nine-member planning board, if so provided by ordinance, shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment, but the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection d. of section 57 of P.L. 1975, c.291 (C.40:55D-70);

and

**WHEREAS**, pursuant to the above ordinance, the Borough of Rockaway, as a municipality with a population of less than 15,000, may dissolve the existing Zoning Board of Adjustment and transfer its powers to the Planning Board, subject to the statutory limitation cited above that prohibits the Planning Board's Class I and Class III members from participating in the consideration of applications involving "d" variances; and

**WHEREAS**, the best interests of the Borough of Rockaway and its residents will be served by dissolving the Zoning Board of Adjustment and transferring its powers to the Planning Board; and good cause having been shown.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Rockaway that the following amendments be made to Chapter 169, Land Use Administration and Procedures, of the Code of the Borough of Rockaway:

Section I

1. Article II, Planning Board, Section 169-5, Establishment, is hereby repealed in its entirety and modified to read as follows:

"§ 169-5, Establishment.

- A. There is hereby established in the Borough of Rockaway pursuant to N.J.S.A. 40:55D-23 a Board entitled the "Borough of Rockaway Land Use Board" of nine members consisting of the following four classes:
    1. Class I: The mayor or the mayor's designee in the absence of the mayor.
    2. Class II: One of the officials of the municipality other than a member of the Governing Body, to be appointed by the mayor.
    3. Class III: A member of the Borough Council to be appointed by it.
    4. Class IV: Other citizens of the municipality, to be appointed by the mayor.
  - B. The Mayor shall have the authority to appoint up to four alternate members who shall meet the qualifications of Class IV members and shall be designated at the time of appointment as Alternates No. 1 through 4. Alternate members may participate in discussions of the board proceedings but may not vote, except in the absence or disqualification of a regular member of any class."
2. Article II, Planning Board, Section 169-9, Powers and duties generally, is hereby repealed in its entirety and modified to read as follows:

"§ 169-9. Powers and duties generally.

    - A. The Land Use Board shall have and exercise all of the powers, duties and procedures prescribed or necessarily implied by the Municipal Land Use Law for planning boards and shall have further powers, duties and procedures prescribed by Ordinance adopted pursuant to the Municipal Land Use Law.
    - B. In addition to the powers set forth in subsection A., the Land Use Board shall exercise, to the same extent and subject to the same restrictions, all of the powers of a board of adjustment; but the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection (d) of N.J.S.A. 40:55D-70."
  3. Sections 169-15 through and including 169-21 of Article III, Zoning Board of Adjustment of the Code of the Borough of Rockaway are deleted in their entirety as the Zoning Board of Adjustment is abolished.

Section II

1. The Rockaway Borough Zoning Board of Adjustment shall continue to meet in the ordinary course only until such time as all applications pending before it on the on the effective date of this ordinance have been heard and formally acted upon. For purposes of this section, the term "applications" shall mean only those applications that have been deemed complete prior to the effective date of this ordinance. Upon the completion of its duties, all funds budgeted to the Zoning Board of Adjustment that have not been expended shall be transferred to the Borough's surplus.

Section III

1. The phrase "Land Use Board" replaces the phrases "Planning Board", "Zoning Board of Adjustment", "Zoning Board" or "Board of Adjustment" wherever these phrases appear in the Code of the Borough of Rockaway.

Section IV

1. This Ordinance may be renumbered for codification purposes.
2. All Ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
4. This Ordinance shall take effect as provided by law.

DATE: December 13, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor Greuter opened the meeting to the public. There being no comments, Mayor Greuter closed the public hearing.

On motion by Councilman Mulligan and seconded by Councilman Vicente, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Kanigel, Mulligan, Vicente, Willer  
Nays: None

ORDINANCE NO. 27-12, Public Hearing & Adoption

**ORDINANCE NO. 27-12  
ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL  
AMENDING CHAPTER A262, BYLAWS OF THE BOROUGH,  
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

**WHEREAS**, pursuant to Section A262-11 of the Bylaws, a Bylaw may be amended upon the proposal of such amendment at a regular or special meeting, and its adoption at the next succeeding regular meeting by a majority of the members of the Council; and

**WHEREAS**, the Mayor and Council of the Borough of Rockaway desire to modify the Bylaws of the Borough to allow for one public comment session during their regular meetings, and a proposal to modify the Bylaws accordingly was made at the regular meeting held on March 24, 2011; and good cause having been shown.

**NOW, THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that the following amendment be made to the Chapter A262, Bylaws of the Borough, of the Code of the Borough of Rockaway:

Section I

1. Section A262-6, Order of business, is hereby repealed in entirety and modified to read as follows:

"The following shall be the order of business at all regular meetings of the Mayor and the Borough Council:

- A. Roll call.
- B. Pledge of Allegiance.
- C. Appointments and proclamations of the Mayor.
- D. Approval of minutes.
- E. Correspondence (presentation of communications, petitions, etc.)
- F. Report of committees or Council comments (includes presentation of bills, which shall be referred for examination before final action).
- G. Reports of Borough Attorney, Mayor and Clerk.
- H. Resolutions to be adopted.
- I. Introduction, consideration and passage of ordinances (first reading and second reading).
- J. Meeting open for public comment.
- K. Adjournment."

Section II

- 1. This Ordinance may be renumbered for codification purposes.
- 2. All Ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
- 3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
- 4. This Ordinance shall take effect as provided by law.

DATE: December 13, 2012

BOROUGH OF ROCKAWAY

ATTEST: Sheila Seifert, Borough Clerk

BY: Russell Greuter, Mayor

Mayor Greuter opened the meeting to the public. There being no comments, Mayor Greuter closed the public hearing.

On motion by Councilman Mulligan and seconded by Councilman Vicente, the above mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Donofrio, Mulligan, Vicente, Willer  
Nays: Kanigel

PUBLIC PORTION

Mayor Greuter opened the meeting to the public.

Mr. Pat MacDonald asked about emergency notifications. Mayor Greuter explained that the Borough has just signed up with United Alert, a free service, which will notify the public via cell phones or e-mail.

Mr. Rob Grow, 110 Lakeside Dr., asked about the effective date of an ordinance pertaining to A-frame signs. He received a court summons with court appearance required for having more than one A-frame sign. Mayor Greuter replied that we cannot discuss an active court case. Discussion ensued regarding the Zoning Officer's practice of notifying businesses when violations are observed.

First Assistant Fire Chief Sam Passarella reported on the recent activities of the Fire Department, including training on the new fire truck, and requested a closed session to discuss a personnel matter. The individual will be given a notice and the session will be scheduled for the December 27 meeting.

There being no further comments, Mayor Greuter closed the meeting to the public.

ADJOURNMENT

The meeting adjourned at 8:27 p.m.

Approved: As Submitted

Sheila Seifert, Borough Clerk

Date: December 27, 2012